July 12, 2017

Scott Pruitt
Environmental Protection Agency Administrator
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

Reference: Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements

Docket ID: EPA-HQ-OAR-2010-0505

Dear Administrator Pruitt,

On behalf of the more than 31,000 members of the National Society of Professional Engineers, I submit the following public comment in response to the Environmental Protection Agency’s proposed stay of certain requirements of Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources, 81 FR 35824. NSPE is deeply concerned by the proposed additional three-month and two-year stays of requirements that were instituted in the 2016 final rule to ensure the public health, safety, and welfare.

In particular, the EPA has granted reconsideration of the requirement for a professional engineer to certify the closed vent system design and capacity assessment, as well as any technical infeasibility determination relative to controlling pneumatic pumps at well sites. Removal of this requirement is to the detriment of the public health, safety, and welfare.

As set forth in the EPA’s proposed stay of the rule:

“For closed vent systems used to comply with the emission standards for various equipment used in the oil and natural gas sector, the 2016 Rule requires certification by a professional engineer that a closed vent system design and capacity assessment was conducted under his or her direction or supervision and that the assessment and resulting report were conducted pursuant to the requirements of the 2016 Rule. This certification requirement must be met in order to comply with the emissions standards for centrifugal compressors, reciprocating compressors, pneumatic pumps, and storage vessels…. In finalizing the 2016 Rule, the EPA made clear that it viewed the PE certification requirement to be an important aspect of a number of performance standards in the rule. The EPA acknowledges that it had not analyzed the costs associated with the PE certification requirement and evaluated whether the improved environmental performance this requirement may achieve justifies the associated costs and other compliance burden.”

NSPE is concerned by the proposed stay and its rationale. As referenced above, the EPA, in its careful consideration and determination of the final 2016 rule, recognized the unique qualifications, expertise, and the legal and ethical duty of professional engineers to hold
paramount the public health, safety, and welfare in their designs, construction, and observations. While NSPE recognizes the EPA can also consider costs, our shared foremost responsibility must be to ensure public health and safety.

A substantial public record was created and considered by the EPA in finalizing the rules that are subject to the proposed stays. More than 7,000 public comments were received and more than 600 documents were made part of the record of the final rule. NSPE, therefore, believes the requirements are sound and based not only upon a full and adequate public record, but also complete legal, judicial, and economic review. This includes a finding by the US Court of Appeals for the District of Columbia that “a lengthy discussion of the ‘costs and benefits’ went into the rule, including both industry and public comments on the PE certification requirements.”

There is no reason or basis for displacing properly enacted final rules at this time; to stay the rules requiring involvement of licensed professional engineers creates real and unnecessary risks to the public health, safety, and welfare in the interim.

NSPE strongly urges the EPA to enforce the current requirements until and unless a new rulemaking is undertaken. Ultimately, any new rule should retain the provisions for a licensed professional engineer to be in responsible charge of all engineering projects.

NSPE and the professional engineers it represents share a common purpose with the EPA in ensuring that the United States exemplifies the best engineering standards in the world. NSPE commits to remaining fully and constructively engaged in any future proceeding.

Please contact Arielle Eiser, senior manager of government relations, at aeiser@nspe.org, with any questions or comments.

Sincerely,

Kodi Jean Verhalen, P.E., Esq., F.NSPE
President